

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ESTATE OF MARCO ANTONIO MALDONADO	X	
	:	
Plaintiff,	:	No. 2:22-cv-3474
	:	
v.	:	
	:	
CITY OF PHILADELPHIA, et al.	:	
Defendants.	:	
	X	

PLAINTIFF’S MOTION TO COMPEL DEFENDANTS’ DEPOSITION

Plaintiff hereby moves to compel depositions of Defendants, Bruce Dougherty, Bruce DeNoble, and Detective Herberto Aponte and Richard Henderson. In support of the Motion, Plaintiff states as follows:

1. On September 7, 2023, this Court issued a Scheduling Order with a discovery deadline of March 29, 2024.
2. On or about October 15, 2023, Marco Maldonado, the then plaintiff, passed away.
3. On January 9, 2024, a Suggestion of Death Upon the Record as to Marco Maldonado was filed in this matter by Defendants. See Doc. 39.
4. Mr. Maldonado’s family was contacted during their bereavement to open an estate for Mr. Maldonado to resolve Mr. Maldonado’s affairs, including this lawsuit.
5. On March 7, 2024, this court granted a Motion to Substitute the Estate of Marco Antonio Maldonado in lieu of the original Plaintiff Marco Maldonado. See Doc. 43.
6. On March 22, 2024, Plaintiff filed a motion to extend case management deadlines considering Mr. Maldonado’s unexpected and untimely death.

7. On March 26, 2024, this court granted the motion to extend case management deadlines. This court ordered that case all fact discovery be due by April 29, 2024.

8. Pursuant to the latest case management order, in April 2024, Plaintiff requested to take depositions of the individually named defendants.

9. Upon receipt of Plaintiff's request, counsel for the defendants stated that due to a trial scheduling conflict, the requested depositions could not be completed within the current fact discovery deadline.

10. Defense counsel subsequently filed a Motion for Reconsideration of Plaintiff's Motion to Extend the Case Management Order to formally request additional time for fact depositions.

11. This court ordered that Defendants' request would be considered, if and when the parties filed a complete schedule of dates certain for all remaining discovery activities.

12. Plaintiff's counsel then provided availability in May for the requested depositions and requested the depositions of other witnesses in the employ of Defendant City of Philadelphia.

13. Defense counsel initially said that they would provide dates for depositions while awaiting outstanding fact discovery from Plaintiffs.

14. On or about April 24, 2024, Plaintiff turned over Plaintiff's entire file of discoverable information.

15. Defendants have now taken position that they will no longer cooperate with any fact discovery as discussed in April.

16. Plaintiff will be severely prejudiced by defendants' failure to participate fully in discovery.

17. Pursuant to Federal Rule of Civil Procedure 37 (a) (3)(B) and local rule 26.1(g) this court is empowered to order defendant to respond to plaintiff's requests.

WHEREFORE, Plaintiff respectfully requests that this honorable court enter an order and the proposed form and compel defendant to provide witnesses for deposition.

Date: May 16, 2024

Respectfully Submitted,

/s/Zainab Khadija Shields, Esquire

Zainab Khadija Shields, Esquire

Attorney for Plaintiffs

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CERTIFICATE OF COMPLIANCE WITH RULE 26.1(F)

Counsel hereby certifies that they attempted to resolve this issue in good faith with the Plaintiff without the need for interference from the Court.

Date: May 16, 2024

Respectfully Submitted,

/s/Zainab Khadija Shields, Esquire
Zainab Khadija Shields, Esquire

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CERTIFICATE OF SERVICE

I, Zainab Khadija Shields, Esquire, certify that on this date I caused a true and correct copy of the above has been filed via electronic filing and that the document is available for viewing and downloading.

Date: May 16, 2024

Respectfully Submitted,

/s/Zainab Khadija Shields, Esquire
Zainab Khadija Shields, Esquire

